

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PHILLIP FOND,

Petitioner,

v.

RALPH DIAZ,

Respondent.

No. 2:20-cv-1145 AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 which challenges a disciplinary conviction at Mule Creek State Prison. Petitioner paid the filing fee.¹

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondent will be directed to file a response to petitioner's habeas petition.

In accordance with the above, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued by the undersigned on July 22, 2020, ECF No. 5, are vacated.

////

¹ Petitioner paid the filing fee after this court issued findings and recommendations that recommended the dismissal of this action due to petitioner's failure to submit a completed in forma pauperis application or pay the filing fee. ECF No. 5. The undersigned's findings and recommendations will now be vacated.

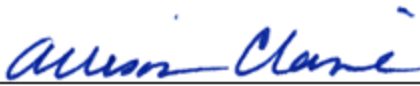
2. Respondent is directed to file a response to petitioner's habeas petition within sixty days from the date of this order. See Rule 4, 28 U.S.C. foll. § 2254. An answer shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, 28 U.S.C. foll. § 2254;

3. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be filed and served within thirty days after service of the answer;

4. If the response to the habeas petition is a motion, petitioner's opposition or statement of non-opposition to the motion shall be filed and served within thirty days after service of the motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter; and

5. The Clerk of the Court shall serve a copy of this order, the form Consent to Proceed Before a United States Magistrate Judge, and a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Tami Krenzin, Supervising Deputy Attorney General.

DATED: August 10, 2020


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE